

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2788 of 1995

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

JAYANTKUMAR KANTILAL TRIVEDI

Versus

EXECUTIVE ENGINEER

Appearance:

1. Special Civil Application No. 2788 of 1995
MR BG JANI for Petitioner No. 1
Mr. H.M. Prachchhak, AGP for Respondent No. 1
NOTICE SERVED for Respondent No. 2-3

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 17/12/2004

ORAL JUDGEMENT

1. The grievance raised in this petition under
Article 226 of the Constitution of India is to seek

regularisation on the post of English Typist, in view of the fact that the petitioner was selected by following the procedure by the respondents, where the name of the petitioner was called from the Employment Exchange and, at the relevant point of time, he was duly qualified and, therefore, on completion of the probation period of three years, by order dated 6th November 1984, the appointment to the petitioner as English Typist was given by the respondents.

2. Time and again, the petitioner had requested the respondents to place him in the regular pay-scale and to regularise his service, and he had completed about nine years of service as English Typist with the respondents when the petition was filed.

3. This Court, initially, vide order dated 6th April 1995, issued notice making it returnable on 20th April 1995, and ordered status-quo with regard to service conditions of the petitioner. Subsequently, Rule was issued and the interim order passed earlier was directed to be continued by order dated 21st July 1995.

4. The respondents resisted the claim of the petitioner of regularisation by filing affidavit-in-reply, wherein, it is stated that the appointment of the petitioner was not in accordance with the Rules and Regulations in existence at the relevant point of time. It is, further, stated in the affidavit-in-reply that temporary assignments were given to the petitioner, and, even if the petitioner was to be treated as work charge employee, his service cannot be regularised as per the Government Resolution dated 31st August 1972 and the petitioner has to undergo the training, and has to wait in queue along with other work charged employees.

5. However, the main grievance of the petitioner is that the respondents had not taken any decision pursuant to his representation dated 18th February 1993, wherein the petitioner had in detail submitted to the respondents-Authority that, in view of the peculiar facts and circumstances of his case, he was duly eligible and qualified to perform duties, and his service may be regularised, since his case was recommended by the Superintending Engineer to the Deputy Secretary, R & B Department, vide letter dated 22nd July 1991 that his work was satisfactory and qualified to hold the post.

6. It is to be noted that, as on today, the interim relief with regard to service condition of the petitioner

remains in operation and the service of the petitioner is protected. Therefore, the respondents, particularly respondent No.3, are directed to take an appropriate decision on the representation dated 18th February 1993 submitted by the petitioner for regularisation of his service in accordance with law and keeping in mind that the petitioner is in service of the Department for the last 20 years, as expeditiously as possible, preferably within three months from the date of receipt of writ of this order. Till the outcome of the decision taken by the respondents on the representation of the petitioner, the interim relief granted by this Court shall remain in force. Rule is made absolute to the aforesaid extent with no order as to costs.

(Anant S. Dave, J.)
(swamy)